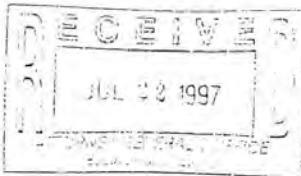


Appendix C

**POLLUTION CONTROL HEARINGS BOARD  
WATER RIGHTS DECISION**

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BEFORE THE POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

STARTUP WATER DISTRICT,  
Appellant,

NO. 96-048

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
Respondent.

STIPULATION AND AGREED  
ORDER FOR CONTINUANCE  
AND DISMISSAL UPON  
FULFILLMENT OF  
CONDITIONS

THE TULALIP TRIBES OF  
WASHINGTON,  
Intervenor.

Appellant Startup Water District ("Startup"), through its attorney Charles R. Meyer, of Meyer Law Office, respondent State of Washington, Department of Ecology ("Ecology"), through its attorney, Alan M. Reichman, Assistant Attorney General, and respondent/intervenor Tulalip Tribes of Washington ("the Tulalips"), through its attorney, Mason D. Morisset, of Morisset Schlosser Ayer & Jozwiak, do hereby agree and stipulate as follows:

1 I. BACKGROUND

2 1. On January 26, 1995, Startup filed an application to  
3 appropriate groundwater from two existing wells (wells 1 and  
4 2). The application was assigned number G1-27580.

5 Appropriation from Startup's two wells is currently authorized  
6 under Water Right Certificate No. 4493-A, priority date  
7 December 28, 1961, for withdrawal of 250 gallons per minute  
8 ("gpm"), 68 acre feet per year ("af/y") for the purpose of  
9 municipal supply. In its application, Startup requested 200  
10 gpm, 150 af/y of additional water.

11 2. On December 29, 1995, Ecology issued a Report of  
12 Examination recommending denial of Startup's application, and  
13 on January 8, 1996, Ecology issued an order denying Startup's  
14 application.

15 3. On February 5, 1996, Startup timely filed an appeal  
16 of Ecology's denial to the Pollution Control Hearings Board  
17 ("the Board"). The appeal was assigned PCHB No. 96-48.

18 4. On April 19, 1996, the Board granted the Tulalips'  
19 Motion to Intervene in PCHB No. 96-48.

20 5. On April 1, 1989, Startup commenced providing water  
21 service to the Wallace River Mobile Home Park ("Mobile Home  
22 Park") pursuant to requests from the Department of Social and  
23 Health Services and the Snohomish Health District. The  
24 connection requests were made as a result of contamination  
25 detected in two wells operated by the Mobile Home Park. The  
26 owners of the Mobile Home Park hold Water Right Certificate No.

1 G1-20179C for 30 gpm, 40.6 af/y, and Water Right Certificate  
2 No. G1-24043C (which is supplemental to No. G1-20179C for  
3 instantaneous quantity) for 95 gpm, 40.6 af/y, for a total of  
4 125 gpm, 40.6 af/y. The Mobile Home Park has not appropriated  
5 water under its certificates since April 1, 1989.

6 6. Shortly after filing its appeal, representatives for  
7 Startup identified Surface Water Right Certificate No. 03659,  
8 which describes a place of use that includes Startup's service  
9 area. Water Right Certificate No. 03659 is held by the City of  
10 Gold Bar ("Gold Bar"), for municipal purposes. The source for  
11 the water right is Olney Creek in Snohomish County.

12 7. In the 1960's, Startup and Gold Bar terminated their  
13 diversion of surface water from Olney Creek and began to supply  
14 water through groundwater withdrawals. Gold Bar holds three  
15 groundwater right certificates which are supplemental to  
16 Certificate No. 03659: Certificate No. G1-00004C for 180 gpm,  
17 336 af/y, Certificate No. G1-23602C for 160<sup>15'</sup> gpm, 336 af/y, and  
18 Certificate No. G1-26816C, dated December 8, 1992, for 410 gpm,  
19 336 af/y. Gold Bar's total water right under these three  
20 certificates is for 750<sup>140?</sup> gpm, 336 af/y. Startup's existing  
21 groundwater right under Certificate No. 4493-A, described in  
22 paragraph 1 above, does not indicate that the right is  
23 supplemental to Certificate No. 03659. It is recognized that  
24 it is possible that Startup's right under Certificate No. 4493-  
25 A was not indicated as being supplemental because Certificate  
26 No. 03659 is in Gold Bar's, and not Startup's, name.

1 3. Startup, Ecology and the Tulalips ("the parties")  
2 wish to avoid the time and cost involved in a formal hearing in  
3 this appeal, and, therefore, without admitting guilt or  
4 liability, stipulate and agree as follows:

5 II. STIPULATION

6 1. The hearing in this appeal shall be continued to  
7 allow the parties to fulfill their respective obligations under  
8 the terms of this stipulation. This appeal shall be dismissed  
9 by the Board upon the parties' notification of the Board within  
10 six (6) months of the entry of this stipulation and agreed  
11 order of the fulfillment and completion of all obligations and  
12 conditions required under this stipulation. Before six months,  
13 the period allowed for the fulfillment and completion of all  
14 obligations and conditions required under this stipulation may  
15 be extended by agreement of the parties. If the parties fail  
16 to fulfill and complete all conditions and obligations within  
17 the prescribed period including all agreed extensions, then,  
18 upon request by any party, the Board shall set a new hearing  
19 date.

20 2. "Supplemental" water rights held by Gold Bar, and  
21 groundwater Certificate No. 4493-A held by Startup, were  
22 authorized as new points of withdrawal for the water authorized  
23 under Certificate No. 03659. As such, these rights are not  
24 cumulative or additive but may be primary withdrawals using the  
25 water authorized in Certificate No. 03659. For the purpose of  
26 this stipulation and agreed order, "supplemental" water rights

1 are defined as rights for new points of withdrawal for the  
2 water authorized in Certificate No. 03659, and are not  
3 cumulative of or additive to the water rights authorized under  
4 Certificate No. 03659.

5 3. Ecology shall act in an expeditious manner to  
6 relinquish Water Right Certificate Nos. G1-20179C and G1-24043C  
7 held by the owners of the Mobile Home Park. <sup>(300 ppm / 10.6 g-ft)</sup>

8 4. Ecology shall commence an action to require the  
9 owners of the Mobile Home Park to decommission the two wells  
10 located on the site of the Mobile Home Park pursuant to WAC  
11 173-160. Notice of this action will be given to the Tulalip  
12 Tribes and the parties shall not object to and shall support  
13 participation by the Tulalip Tribes in that proceeding. This  
14 condition will be completed upon the commencement of the  
15 action; fulfillment of this condition is not contingent upon  
16 actual decommissioning of the two wells.

17 5. 0.222 cubic feet per second ("cfs"), 160 af/y of  
18 surface water rights from Certificate No. 03659 shall be <sup>(100 ppm)</sup>  
19 transferred into the Trust Water Right Program and designated  
20 in the Trust Water Right Program for the purpose of increasing  
21 base flows in Olney Creek, and the Wallace River and Skykomish  
22 River, to which Olney Creek is tributary. To effectuate this  
23 transfer, Startup shall, jointly with the City of Gold Bar,  
24 file an application for change of water right requesting the  
25 transfer of 0.222 cubic feet per second ("cfs"), 160 af/y of  
26 surface water rights from Certificate No. 03659 into the Trust

1 Water Right Program pursuant to RCW 90.42 et seq.. The  
2 application which Startup shall file is attached and  
3 incorporated into this Stipulation as Appendix A, and its form  
4 shall satisfy the requirements of this paragraph. Ecology  
5 shall expeditiously process Startup's application.

6 6. Ecology shall issue an amended Report of Examination  
7 for application G1-275806, and a subsequent permit to Startup,  
8 which shall specify:

- 9 A. points of withdrawal consistent with Startup's
- 10 existing system (wells 1 and 2);
- 11 B. a priority date of January 26, 1995;
- 12 C. a maximum instantaneous quantity of 50 gpm;
- 13 D. a maximum annual quantity of 80 af/y;
- 14 E. the purpose of use is municipal supply;
- 15 F. the place of use is the area served by the
- 16 Startup Water District consistent with the
- 17 Startup Water District's water system plan and
- 18 periodic updates;
- 19 G. the water right is supplemental, and not
- 20 cumulative or additive, to Water Right
- 21 Certificate No. 03659;
- 22 H. the water right is provided to Startup to
- 23 authorize the withdrawal and use of sufficient
- 24 water to meet its current demand and its future
- 25 growth in demand through 2015 as projected in
- 26 its current water system plan;



- 1 I. Startup must meter their existing wells (wells 1  
2 and 2);
- 3 J. other standard provisions for public water  
4 systems, as described in Appendix B which is  
5 attached and incorporated into this Stipulation.
- 6 7. Upon approval of the Trust Water transfer pursuant to  
7 paragraph 5 above, and upon the issuance of a permit to Startup  
8 under paragraph 6 above, Ecology shall issue a Report of  
9 Examination for the change of water rights under Certificate  
10 No. 03659. This Report of Examination shall specify the  
11 following:
- 12 A. 0.222 cfs of water under Certificate No. 03659  
13 is transferred to the Trust Water Rights  
14 Program;
- 15 B. Gold Bar holds three groundwater right  
16 certificates, certificate Nos. G1-00004C, G1-  
17 23602C, and G1-26816C, for a total of 750 gpm,  
18 336 af/y which is supplemental to Certificate  
19 No. 03659; and
- 20 C. Startup holds Certificate No. 4493-A for 250  
21 gpm, 68 af/y, and the permit specified in  
22 paragraph 6 above, for a total of 300 gpm, 148  
23 af/y which is supplemental to Certificate No.  
24 03659 and is currently being used or is needed  
25 for growth projected through 2015 under  
26 Startup's current water system plan.

1 The Report of Examination shall further specify that it "does  
2 not quantify, certify, adjudicate, or confirm what portion of  
3 Certificate No. 03659 (which specifies an upper limit of 3.0  
4 cfs) continues to be a valid water right because no  
5 quantitative analysis was performed beyond what water is  
6 currently being used or is needed for the purpose of current  
7 water system plans. Such quantification can occur in the  
8 future, if necessary, through adjudication or an appropriate  
9 administrative procedure. No other requirements under Chapters  
10 90.03 and 90.44 are waived." Subsequent to issuance of this  
11 Report of Examination, three superseding certificates for the  
12 water rights under Certificate No. 03659 shall be issued as  
13 follows:

- 14 A. one superseding certificate shall be for the  
15 - 0.222 cfs held by the Trust Water Rights  
16 Program;
- 17 B. one superseding certificate shall be for  
18 Startup's Certificate No. 4493-A and shall  
19 indicate that the right is supplemental to  
20 Certificate No, 03659; and
- 21 C. one superseding certificate shall be for  
22 Certificate No. 03659 less the 0.222 cfs held by  
23 the Trust Water Rights Program.

24 8. All disputes arising from Ecology's denial of  
25 application G1-27580 and this appeal shall be resolved upon the  
26 fulfillment and completion of all obligations and conditions

1 under this stipulation. Upon such resolution, the parties  
2 agree that each party shall bear its own attorney fees and  
3 costs.

4 9. The parties agree that the Board may enter the  
5 following Order.

6 RESPECTFULLY SUBMITTED this 1st day of <sup>July</sup>~~April~~, 1997.

7 DEPARTMENT OF ECOLOGY

8 *Ala. Reiman, WSBA #6761*  
9 *EC*

10 RAYMOND HELLWIG  
Northwest Region  
Section Supervisor

11 DATED: July 1, 1997

THE TULALIP TRIBES OF WASHINGTON

*Mason D. Morisset, WSBA #273*

MASON D. MORISSET, WSBA #273  
Attorney for Respondent/  
Intervenor

12 DATED: July 20, 1997

13 STARTUP WATER DISTRICT

14 *Charles R. Meyer, WSBA #6761*

15 CHARLES R. MEYER, WSBA #6761  
Attorney for Appellant

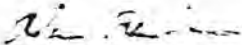
16 DATED: June 30, 1997

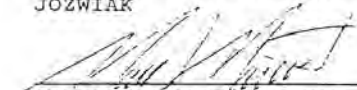
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Approved as to form and content:

CHRISTINE O. GREGOIRE  
Attorney General

MORISSET SCHLOSSER AYER &  
JOZWIAK

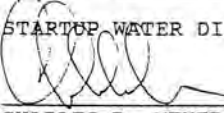
  
ALAN M. REICHMAN, WSBA #23874  
Assistant Attorney General  
Attorneys for Respondent  
State of Washington  
Department of Ecology

  
MASON D. MORISSET, WSBA #273  
Attorney for Respondent/  
Intervenor  
The Tulalip Tribes  
of Washington

DATED: July 1, 1992

DATED: June 24, 1997

STARTUP WATER DISTRICT

  
CHARLES R. MEYER, WSBA #6761  
Attorney for Appellant

DATED: June 30, 1997

ORDER

The Pollution Control Hearings Board, having reviewed the foregoing Stipulation and the files and pleadings herein, and it appearing that the parties have reached an agreement;

IT IS HEREBY ORDERED:

1. That the foregoing Stipulation is entered as an order of this Board, and the hearing in this appeal is continued to allow the parties to fulfill their respective obligations under the terms of the Stipulation;

2. That this appeal shall be dismissed by the Board upon the parties' filing of a joint statement to the Board indicating the fulfillment and completion of all obligations and conditions required under this stipulation within six (6) months of the entry of this Stipulation and Agreed Order for

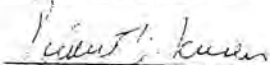
1 Continuanance and Dismissal Upon Fulfillment of Conditions.  
2 Before six months, the period allowed for the fulfillment and  
3 completion of all obligations and conditions required under  
4 this stipulation may be extended by agreement of the parties;  
5 and

6 3. That if the parties fail to fulfill and complete all  
7 conditions and obligations within the time period prescribed in  
8 paragraph 2 above including all agreed extensions, then the  
9 Board shall not dismiss this appeal and, upon a receipt of a  
10 request by any party, the Board shall set a new date for a  
11 hearing in this appeal.

12 DATED this 22nd day of March, 1997.

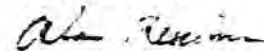
13 POLLUTION CONTROL HEARINGS BOARD

14   
15 JAMES A. TUPPER JR., Presiding

16   
17 ROBERT V. JENSEN, Member

18  
19  
20 Presented by:

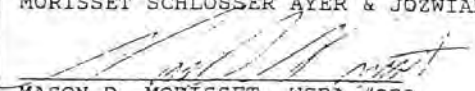
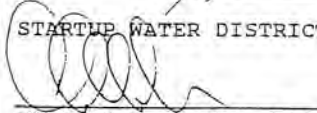
21 CHRISTINE O. GREGOIRE  
22 Attorney General

23   
24 ALAN M. REICHMAN, WSBA #23874  
25 Assistant Attorney General  
26 Attorneys for Respondent  
State of Washington  
Department of Ecology

DATED: Tu 22 1997

STIPULATION AND AGREED ORDER  
FOR CONTINUANCE AND DISMISSAL  
Page 11

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
PO Box 40117  
Olympia, WA 98504-0117  
FAX (360) 338-7743

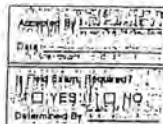
1 | Approved as to Form and Content:  
2 | MORISSET SCHLOSSER AYER & JOZWIAK  
3 |   
4 | MASON D. MORISSET, WSBA #273  
5 | Attorneys for Respondent/Intervenor  
6 | The Tulalip Tribes of Washington  
7 | DATED: June 24, 1997  
8 |   
9 | STARTUP WATER DISTRICT  
10 | CHARLES R. MEYER, WSBA #6761  
11 | Attorney for Appellant  
12 | Startup Water District  
13 | DATED: June 30, 1997

14 | sr3\wria7\startup.5a

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

JOINT APPLICATION FOR CHANGE OF WATER RIGHT

PURPOSE  DIVERSION OR WITHDRAWAL  
 PLACE  ADDITIONAL POINT OR POINTS



NAME IS <u>Startup Water District P.O. Box 114, Startup, WA 98293</u> and <u>City of Gold Bar</u>		Bus Tel <u>360-793-1833</u> (SWD)
ADDRESS (CITY) (STATE) <u>P.O. Box 107 (408 Orchard Ave.) Gold Bar WA</u>		Home Tel <u>360-793-1101</u> (GB)
APPLICATION NUMBER <u>09019</u>		Other Tel <u>360-793-1222</u>
PERMIT NUMBER <u>6405</u>	CERTIFICATE NUMBER <u>03659</u>	ZIP CODE <u>98251</u>

DECREE RIGHT (TITLE OF CASE) H.A.  
APPROPRIATIONS MADE (GIVE DATE IF PRIOR TO JUNE 7, 1917 IF SURFACE WATER, OR JUNE 7, 1915 IF GROUND WATER)  
3 CFS from Olney Creek (surface water right)  
IS THE WATER RIGHT RECORDED IN YOUR NAME?  YES  NO IF NO, GIVE NAME RECORDED UNDER

1. RIGHT CONSISTS OF  
WATERS USED FROM (STREAM, LAKE, WELL, OR TRENCH, ETC.) Stream (Olney Creek) GALLONS PER MINUTE OR CUBIC FEET PER SECOND  
3 Cubic Feet Per Second  
WATER CURRENTLY USED FOR Reserved for public water supply use TIME OF USE Unrestricted

2. LOCATION OF PRESENT POINT OF DIVERSION OR WITHDRAWAL  
ENTER BELOW THE DISTANCES FROM THE NEAREST SECTION OR PROPERTY CORNER TO THE DIVERSION OR WITHDRAWAL  
At Olney Falls, see map attached as Exhibit 3-1  
LOCATED WITHIN (SMALLEST LEGAL SUBDIVISION) SECTION TOWNSHIP II RANGE (E. OR W.) W.M. COUNTY  
SE 1/4 of SE 1/4 25 28 8E Snohomish

IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY, COMPLETE THIS SECTION  
LOT BLOCK OF (GIVE NAME OF PLAT OR ADDITION)  
H.A.

3. LEGAL DESCRIPTION OF LANDS WATER IS USED ON  
Areas served by the City of Gold Bar and the Startup Water District systems within Snohomish County.

SECTION <u>See above</u>	TOWNSHIP II	RANGE (E. OR W.) W.M.	COUNTY
-----------------------------	-------------	-----------------------	--------

(ATTACH SEPARATE SHEET IF NECESSARY)  
ARE YOU THE LEGAL OWNER OF THE ABOVE DESCRIBED LANDS? IF NO, EXPLAIN YOUR INTEREST  
 YES  NO (only portions) Within the service areas of the public water systems.

REASONS FOR THE PROPOSED CHANGE  
See attached

A MINIMUM FEE OF \$10.00 MUST ACCOMPANY THIS APPLICATION

ECY 248 (1/87)  
Rev. 2/86 (1/1)

COPY OF ORIGINAL

CONTINUE ON REVERSE SIDE

CHANGE

APPENDIX A





Addendum to Joint Application for Change of Water Right  
filed by Startup Water District and City of Gold Bar

REASONS FOR THE PROPOSED CHANGE

To appropriate part of the water right originally granted for the benefit of the Town (now City) of Gold Bar and the Startup area which, when previously transferred, was put solely in the name of Gold Bar. A small portion of these water rights, 0.111 CFS of the 3 CFS, is presently needed for the Startup Water District system's 20 year comprehensive plan.

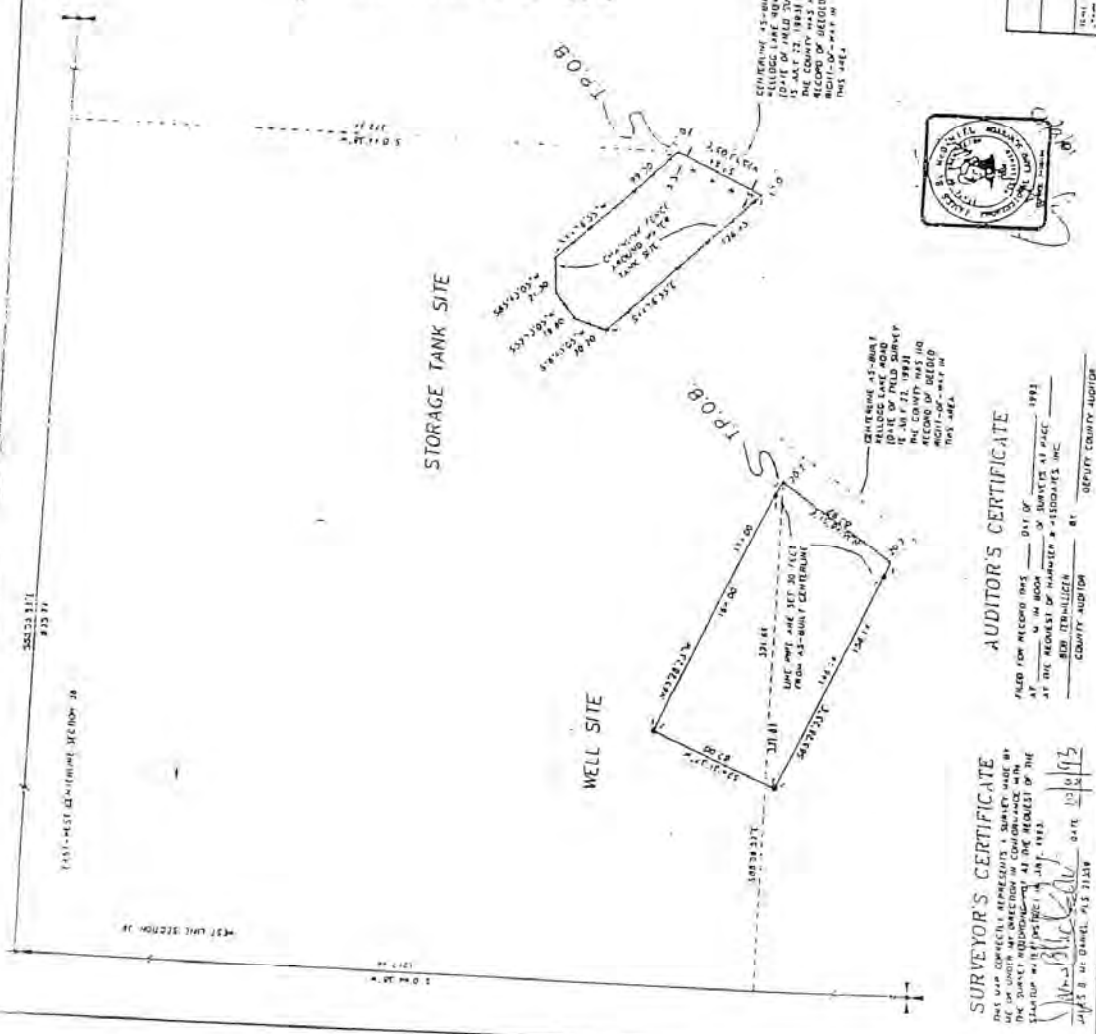
The proposed methodology for the proposed change would be to put the 0.222 CFS of surface water rights into the State of Washington trust water rights program, in accordance with Chapter 90.42 RCW, in exchange for 50 GPM, 80 Af/y of ground water rights to be withdrawn at the Startup Water District well site. Twice the amount of surface water rights are being put into the trust program as mitigation.







**STARTUP WATER DISTRICT**  
SECTION 36, TOWNSHIP 24 NORTH, RANGE 8 EAST



BEFORE THE RECORD OF DEEDS OF THE COUNTY OF HARRIS, TEXAS, I, THE COUNTY CLERK, HAVE RECEIVED AND EXAMINED THE ABOVE PLAT AND HAVE FOUND IT TO BE IN ACCORDANCE WITH THE LAWS OF THIS STATE AND THE RULES OF THE COUNTY CLERK'S OFFICE. I HEREBY CERTIFY THAT THE SAME IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SUBMITTED TO ME.

**LEGEND**

- BOUNDARY OF THIS SURVEY
- BOUNDARY OF ADJACENT SURVEYS

ENGINEER'S ASSURANCE:  
I HEREBY CERTIFY THAT THE ABOVE PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SUBMITTED TO ME AND THAT THE SAME IS IN ACCORDANCE WITH THE LAWS OF THIS STATE AND THE RULES OF THE COUNTY CLERK'S OFFICE.



**AUDITOR'S CERTIFICATE**

FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1993  
AT THE OFFICE OF THE COUNTY CLERK OF HARRIS COUNTY, TEXAS.  
COUNTY CLERK \_\_\_\_\_ DEPUTY COUNTY CLERK \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**

THIS WAS CORRECTLY AND ACCURATELY SURVEYED BY ME OR UNDER MY DIRECTORIAL CONTROL AND I HEREBY CERTIFY THAT THE ABOVE PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SUBMITTED TO ME AND THAT THE SAME IS IN ACCORDANCE WITH THE LAWS OF THIS STATE AND THE RULES OF THE COUNTY CLERK'S OFFICE.

DATE: 12/15/93  
BY: [Signature]

**STARTUP WATER DISTRICT**  
RECORD OF SURVEY



29 September 1993

Page 1 of 2

LEGAL DESCRIPTION OF LAND WITHIN THE STARTUP WATER DISTRICT, COMPILED FROM FOLLOWING DOCUMENTS:

- 1.) Resolution of the Board of County Commissioners of Snohomish County creating Startup Water District, dated August 6, 1956.
- 2.) Startup Water District Resolution No. 12, dated September 10, 1964.
- 3.) Startup Water District Resolution No. 17, date July 18, 1968.
- 4.) Quit Claim Deed recorded under Snohomish County Auditor's File No. 2296433.
- 5.) Statutory Warranty Deed recorded under Snohomish County Auditor's File No. 8212130112.

All those portions of Sections 35 and 36, Township 28 North, Range 8 East, W.M., described as follows:

- A:) Government Lot 1, Section 35, Township 28 North, Range 8 East, W.M., LESS that portion described as follows: Commencing at the intersection of the East line of said Government Lot 1, and the North bank of the Wallace River; thence West, along the North bank of the Wallace River, for a distance of 800 feet to the TRUE POINT OF BEGINNING; thence North to the Southerly right-of-way line of the Burlington Northern Railroad; thence West along said Southerly right-of-way line to a point 384.7 feet West from, as measured along said right-of-way line, the West line of Block 16, Plat of Wallace as recorded in Volume 2 of Plats, page 11, records of Snohomish County; thence South to the North bank of the Wallace River; thence Easterly along said North bank to the POINT OF BEGINNING.
- B:) Government Lot 2, Section 35, Township 28 North, Range 8 East, W.M., LESS that portion lying South of the Burlington Northern Railroad right-of-way, and West of the Southerly extension of the East line of Block 12, Sparling's First Addition to Wallace, as recorded in Volume 2 of Plats, at page 93, records of Snohomish County, Washington.
- C:) Government Lot 3, the Northeast quarter of the Southwest quarter (NE1/4, SW1/4), and the Southeast quarter of the Northwest quarter (SE1/4, NW1/4), of Section 35, Township 28 North, Range 8 East, W.M.

HARMSER & ASSOCIATES, INC.  
17614 - 182nd St. S.E. • P.O. Box 616  
Moore, WA 98272-0516  
724-7811 • 794-9087



12/9/93





29 September 1993

Page 1 of 2

LEGAL DESCRIPTION OF LAND WITHIN THE STARTUP WATER DISTRICT

- D:) The North half of the Southeast quarter of Section 35, Township 28 North, Range 8 East, W.M., LESS those parcels conveyed by documents recorded under Snohomish County Auditor's File Nos. 2296433 and 8212138112, whose combined exterior boundary is described as follows: Beginning at the center of said Section 35; thence East along the East-West centerline of said Section 35 to the East one-quarter corner thereof; thence South, along the East line of said Section 35, to a point 600 feet North of the intersection of said East line with the North line of Third Street per Plat of Wallace as recorded in Volume 2 of Plats, page 11, records of Snohomish County; thence West 592 feet; thence North 12 feet; thence West 350 feet; thence South 12 feet; thence West to the East line of 367th Ave. SE; thence North, along said East line of 367th Ave. SE, to a point 167.25 feet South of the East-West centerline of said Section 35; thence West to the West line of said Southeast quarter; thence North 167.25 feet to the POINT OF BEGINNING.
- E:) The Southeast quarter of the Southeast quarter of the Northeast quarter (SE1/4, SE1/4, NE1/4) of Section 35, Township 28 North, Range 8 East, W.M.
- F:) Government Lot 6, the Northwest quarter of the Southwest quarter (NW1/4, SW1/4), and that portion of the South half of the Southwest quarter of the Northwest quarter (S1/2, SW1/4) West of the Kallioy Lake Road, all in Section 36, Township 28 North, Range 8 East, W.M.

HARMSEIL & ASSOCIATES, INC.  
17614 - 162nd St. S.E. • P.O. Box 618  
Monroe, WA 98272-0518  
704-7811 • 704-8087





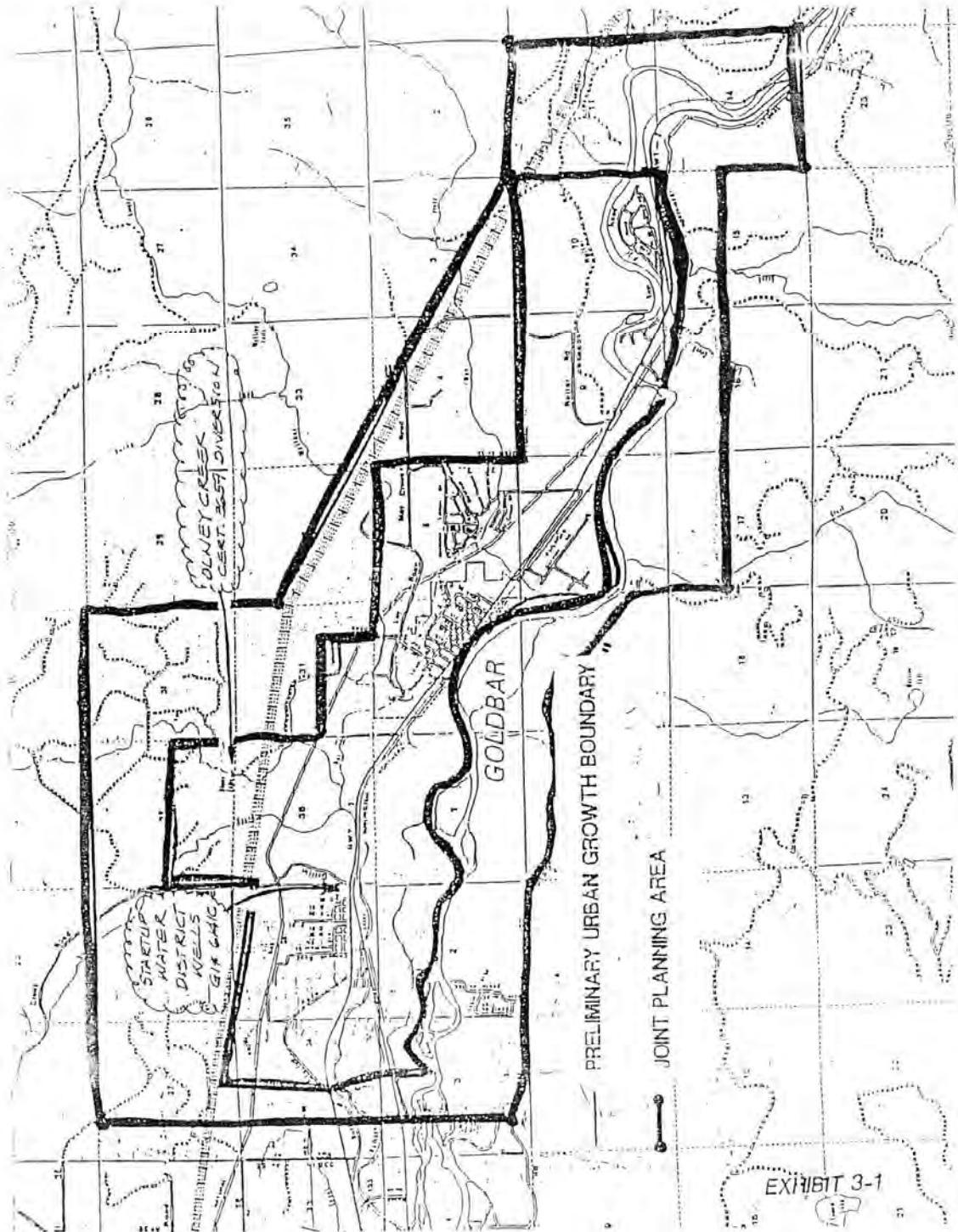


EXHIBIT 3-1



In addition to any specific conditions on a permit, these are STANDARD PROVISIONS used on most Ground Water Permits:

Installation and maintenance of an access port as described in Ground Water Bulletin No. 1 is required. An air line and gauge may be installed in addition to the access port.

In order to monitor the resource, static water levels (SWL) shall be measured at least once each month. Measurements shall be taken after the well has been stabilized. The data shall be maintained and made available to Ecology upon request. However, Ecology's Water Resource Section (NWRO) shall be notified if the SWL is determined to be below the level normally recorded at that time of year. See enclosed form.

An approved measuring device shall be installed and maintained in accordance with RCW 09.03.360, WAC 508-64-020 through 508-64-040 (Installation, operation and maintenance requirements enclosed). Meter readings shall be recorded monthly and this data shall be maintained and made available to Ecology upon request.

This Permit is subject to the implementation of the minimum requirements established in the Conservation Planning Requirements: Guidelines for Public Water Systems Regarding Water Use Reporting, Demand Forecasting Methodology and Conservation Programs, March 1994, which are enclosed.

A certificate of water right will not be issued until a final investigation is made.



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BEFORE THE POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

STARTUP WATER DISTRICT,  
Appellant,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
Respondent.

THE TULALIP TRIBES OF  
WASHINGTON,  
Intervenor.

NO. 96-048

AGREED ORDER OF DISMISSAL

I.

Appellant Startup Water District ("Startup"), through its attorney Charles R. Meyer, of Meyer Law Office, respondent State of Washington, Department of Ecology ("Ecology"), through its attorney, Alan M. Reichman, Assistant Attorney General, and respondent/intervenor Tulalip Tribes of Washington ("the Tulalips"), through its attorney, Mason D. Morisset, of Morisset, Schlosser, Ayer & Jozwiak, do hereby agree that the parties hereto have fulfilled and completed their respective obligations and conditions required under the Stipulation and Agreed Order for Continuance and Dismissal Upon Fulfillment of Conditions issued by the Board in the above-captioned action on July 22, 1997.

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II.

It appears that the parties have fulfilled and completed their respective obligations and conditions as set forth in the Stipulation and Agreed Order for Continuance and Dismissal Upon Fulfillment of Conditions.

III.

Based on the foregoing, and having reviewed the files and pleadings herein, the Pollution Control Hearings Board issues this:

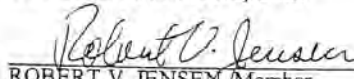
ORDER OF DISMISSAL

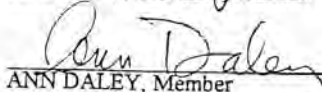
It is hereby ORDERED, ADJUDGED AND DECREED that this appeal, PCHB No. 98-33, is hereby DISMISSED with prejudice, with each side to bear its own costs and attorney fees.

DATED this ~~2nd~~ <sup>October</sup> day of ~~September~~, 1998.

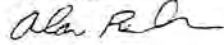
POLLUTION CONTROL HEARINGS BOARD

  
JAMES A. TUPPER JR., Chair

  
ROBERT V. JENSEN, Member

  
ANN DALEY, Member


Presented by:  
CHRISTINE O. GREGOIRE  
Attorney General



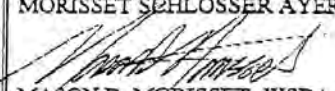
ALAN M. REICHMAN, WSBA #23874  
Assistant Attorney General

Attorneys for Respondent  
State of Washington  
Department of Ecology



1 Approved as to Form and Content:  
2 MORISSET SCHLOSSER AYER & JOZWIAK  
3 BY FACSIMILE  
4 MASON D. MORISSET, WSBA #273  
5 Attorneys for Respondent/Intervenor  
6 The Tulalip Tribes of Washington  
7  
8 STARTUP WATER DISTRICT  
9   
10 CHARLES R. MEYER, WSBA #6761  
11 Attorney for Appellant  
12 Startup Water District  
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VAR3\WRLA7\STARTUP DISMISSAL ORDER

1 Approved as to Form and Content:  
2 MORISSET SCHLOSSER AYER & JOZWIAK  
3   
4 MASON D. MORISSET, WSBA #273  
5 Attorneys for Respondent/Intervenor  
6 The Tulalip Tribes of Washington

6 STARTUP WATER DISTRICT

8 CHARLES R. MEYER, WSBA #6761  
9 Attorney for Appellant  
10 Startup Water District

11 WRS170177 STARTUP DISMISSAL ORDER

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